

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI

RYAN WHITE, : Case No. C-1-02-109
Petitioner, :
: Judge Beckwith
v. : Magistrate Judge Hogan
: :
PAT HURLEY, Warden, :
Respondent. : :

RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE OBJECTIONS
WITH CORRECTIONS

Now comes Respondent, by and through counsel, and pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, respectfully moves this Court for an order granting an enlargement of time through and including July 16, 2004, in which to file objections to the Report and Recommendation of the Magistrate Judge.

Respectfully submitted,

JIM PETRO
Ohio Attorney General

s\Thelma Thomas Price
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MEMORANDUM IN SUPPORT

The Magistrate issued a Report and Recommendation on June 3, 2004, noting that objections must be filed within 10 days of the date the order is served upon the parties. Counsel submits that pursuant to the Federal Rules of Civil Procedure, Rule 6(b) and (e), the time for filing a response is calculated by first adding 3 days to the prescribed period if the paper is served upon the party under Fed.R.Civ. P. 5(b)(2)(D), governing electronic filing. Counsel submits that pursuant to this rule the 10-day period for filing objections ends on the 10th business day after June 6, 2004. See Fed. R.Civ.P. 6(a) (when the time prescribed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation). The last date for filing objections is therefore June 18, 2004. Counsel therefore submits that this motion is timely filed.

Counsel for Respondent requests an extension of time to file objections for the reason that Counsel has numerous filing obligations that were already scheduled at the time the Magistrate's R & R was filed. The completion of these obligations, in the district court and in the Sixth Circuit Court of Appeals and well as the Ohio Supreme Court will make it impossible to fairly present Respondent's objections to this R & R by the current due date. Counsel therefore requests an extension until July 16, 2004.

The Respondent has not sought any prior extensions of time to file these objections.

Respectfully submitted,

JIM PETRO
Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Respondent's Motion for Extension of Time to File Objections with Corrections* was sent to Petitioner, Ryan White #352-464, London Correctional Institution, P.O. Box 69, London, Ohio 43140, via first class U.S. mail, this 17th day of June 2004.

s\Thelma Thomas Price
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